



Billing Code 3410-DM-P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 391

[Docket No. FSIS-2013-0026]

Extension of the Current Fees for the Accredited Laboratory Program

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Interim final rule.

SUMMARY: The Accredited Laboratory Program is the FSIS program in which non-Federal laboratories are accredited as eligible to perform analyses on official regulatory samples of raw or processed meat and poultry products, and through which a check sample program for quality assurance is conducted. The program is funded by user fees. The current fee regulation is due to expire at the end of the present fiscal year. In order to provide time to develop a proposed rule that will establish a formula for determining the fee, FSIS is extending the current laboratory accreditation fee.

DATES: This final rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: FSIS invites interested persons to submit comments on this rule. Comments may be submitted by either of the following methods:

- Federal eRulemaking Portal: This Web site provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments. Go to <http://www.regulations.gov>. Follow the on-line instructions at that site for submitting comments.

- Mail, including CD-ROMs, etc.: Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Patriots Plaza 3, 1400 Independence Avenue SW, Mailstop 3782, Room 8-163B, Washington, DC 20250-3700.

- Hand- or courier-delivered submittals: Deliver to Patriots Plaza 3, 355 E. Street SW, Room 8-163B, Washington, DC 20250-3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS-2013-0026. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to <http://www.regulations.gov>.

Docket: For access to background documents or comments received, go to the FSIS Docket Room at Patriots Plaza 3, 355 E. Street SW, Room 8-164, Washington, DC 20250-3700 between 8:00 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Contact Charles Williams, Director, Issuance Staff, Office of Policy and Program Development, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW, Room 6077, South Building, Washington, DC 20250; Telephone: (202) 720-5627.

SUPPLEMENTARY INFORMATION:

Background

FSIS accredits non-Federal analytical laboratories under its Accredited Laboratory Program. Such accreditation allows laboratories to conduct analyses of official meat and poultry samples. The Food, Agriculture, Conservation, and Trade Act of 1990, as amended, mandates that laboratory accreditation fees cover the costs of the Accredited Laboratory Program. This same Act mandates an annual payment of an accreditation fee on the anniversary date of each accreditation.

On April 12, 2011, FSIS issued a final rule entitled, "New Formulas for Calculating the Basetime, Overtime, Holiday, and Laboratory Services Rates; Rate Changes Based

on the Formulas; and Increased Fees for the Accredited Laboratory Program" (76 FR 20220). The rule increased fees for the Accredited Laboratory Program beginning in fiscal year 2012 in order to ensure FSIS recovered the cost of providing laboratory accreditation services. The current laboratory accreditation fee of \$5,000 expires September 30, 2013. However, because the Accredited Laboratory Program fee continues to be necessary, FSIS is extending the current fee. FSIS plans to develop and propose a new formula for calculating the fee.

Interim Final Rule

FSIS is amending 9 CFR 391.5 to keep the laboratory accreditation fee at \$5,000.00. In accordance with section 553 of the Administrative Procedure Act (5 U.S.C. 553), the Agency finds good cause for making this interim rule effective upon publication. At the same time, however, FSIS is providing for a 30-day comment period. FSIS will propose changes to the laboratory accreditation fees through future rulemaking.

Executive Order 12866 Regulatory Review

This rule has been reviewed under Executive Order 12866 by the Office of Management and Budget (OMB) and has

been determined to be "not significant" for purposes of E.O. 12866.

Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act (5 U.S.C. 601-612), the FSIS Administrator has examined the economic implications of the rule and has determined that it will not have a significant impact on a substantial number of small entities.

Executive Order 12988 Civil Justice Reform

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under this rule: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) no retroactive proceedings will be required before parties may file suit in court challenging this rule.

Executive Order 13175 Indian Tribal Governments

This rule has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this regulation will not have substantial and direct effects on Tribal governments and will not have significant Tribal implications.

Paperwork Reduction Act

This rule does not contain any new information collection or record keeping requirements that are subject to the Office of Management and Budget (OMB) approval under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

E-Government Act

FSIS and USDA are committed to achieving the purposes of the E-Government Act (44 U.S.C. 3601, et seq.) by, among other things, promoting the use of the Internet and other information technologies and providing increased opportunities for citizen access to government information and services, and for other purposes.

Additional Public Notification

FSIS will announce this rule online through the FSIS Web page located at <http://www.fsis.usda.gov/wps/portal/fsis/topics/regulations/federal-register>

FSIS will also make copies of this Federal Register publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, Federal Register notices, FSIS public meetings, and other types of information that could affect or would be of interest to

constituents and stakeholders. The Update is communicated via Listserv, a free electronic mail subscription service for industry, trade groups, consumer interest groups, health professionals, and other individuals who have asked to be included. The Update is also available on the FSIS Web page. In addition, FSIS offers an electronic mail subscription service which provides automatic and customized access to selected food safety news and information. This service is available at <http://www.fsis.usda.gov/wps/portal/fsis/programs-and-services/email-subscription-service>.

Options range from recalls to export information to regulations, directives, and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

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List of Subjects in 9 CFR Part 391

Fees and charges, Government employees, Meat inspection, Poultry products.

Accordingly, 9 CFR part 391 is amended as follows:

**PART 391—FEES AND CHARGES FOR INSPECTION SERVICES AND
LABORATORY ACCREDITATION**

1. The authority citation for part 391 continues to read as follows:

AUTHORITY: 7 U.S.C. 138f; 7 U.S.C. 1622, 1627 and 2219a; 21 U.S.C. 451 *et seq.*; 21 U.S.C. 601-695; 7 CFR 2.18 and 2.53.

2. In § 391.5, paragraph (a) is revised to read as follows:

§ 391.5 Laboratory accreditation fee.

(a) The annual fee for the initial accreditation and maintenance of accreditation provided pursuant to § 439.5 of this chapter shall be \$5,000.00.

* * * * *

Done at Washington, DC on: September 20, 2013

Alfred V. Almanza

Administrator.

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